



**Office of the Clerk of the
House of Representatives**

Te Tari o te Manahautū o te Whare Māngai

Parliament House,
Private Bag 18041, Wellington 6160
+64 4 817 0215
parliament.nz

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Mrs Lucy Wicks MP
Committee Chair
Standing Committee on Petitions
PO Box 6021
Parliament House
Canberra ACT 2600
Australia

Via email: petitions.committee.reps@aph.gov.au

Dear Mrs Wicks

Submission on the Inquiry into the Future of Petitioning in the House of Representatives

Thank you for your invitation to make a submission on the committee's inquiry into the future of petitioning in the House of Representatives. Petitions are a valuable way of increasing engagement with Parliament, and it is important that we continue to keep petitions open and accessible as a way to maintain the public's connection with the institution.

In this submission, I will describe the approach taken to petitions in the New Zealand Parliament, and will also discuss some of our initial experiences with e-petitions since launching our e-petitions platform in March of this year.

The role and operations of the Standing Committee on Petitions

Select committee structure

In New Zealand, we have chosen not to have a committee structure that focuses on the type of business, like having a Petitions Committee. Instead, we have adopted an approach where committees are structured around subject areas. We have twelve main subject select committees – Economic Development, Science and Innovation; Education and Workforce; Environment; Finance and Expenditure; Foreign Affairs, Defence and Trade; Governance and Administration; Health; Justice; Māori Affairs; Primary Production; Social Services and Community; and Transport and Infrastructure – which undertake a broad range of functions. Within its subject area, a subject select committee will scrutinise bills, conduct inquiries, receive

briefings, scrutinise spending, and examine international treaties, as well as consider petitions.

We also have four other select committees with a specific focus – Officers of Parliament; Privileges; Regulations Review; and Standing Orders. These other committees tend to have a more limited range of functions, but they can also on occasions be allocated a petition if it is relevant to their area of interest – for example, the Standing Orders Committee was recently referred a petition on the wording of the parliamentary prayer, which will most likely be considered as part of the review of Standing Orders.

When a new petition is presented, it stands referred to a select committee allocated by the Clerk of the House. Because the allocation of the petition is by the Clerk, rather than the House, if it becomes clear that a different committee would be best positioned to consider the petition then the committees can agree between themselves to transfer the petition.

The advantage of our subject select committee structure is that it allows committee members to develop a detailed understanding of a specific subject area, which improves the committee's examination of any business before it. When considering an issue raised by a petition, the select committee will often have an existing knowledge of the issue or of the broader context that the matter sits in, due to its previous work on the area. It is therefore in a good position to understand all the issues and factors that relate to the subject, and use that wider understanding to improve its consideration of the petition. It also means that there is greater ability to examine a petition in relation to other work the committee might be undertaking. It is quite common for petitions to be reported to the House in a combined report with another item of business. For example, if a petition is received asking the House to pass or to reject a particular bill, the petition will usually be referred to the select committee considering that bill, so that the select committee can take into account the views of those that signed the petition as it considers the bill.

This approach allows petitions to inform the committee's broader work. If, in the course of considering a petition, a different issue of concern was identified, a committee that is focused solely on petitions might be limited in its ability to examine that matter. However, provided that issue was within a committee's subject area, a subject select committee could use that petition as a prompt to receive a briefing or establish an inquiry into that issue. In this way, a subject focus for committees can develop the Parliament's overall consideration and understanding of any issues in the area, and improve outcomes for the affected population, in a way that a committee considering only petitions may not be able to do.

However, structuring select committees around subject areas rather than types of business does present some challenges, the most significant of which is that it risks marginalising petitions. Select committees can often be extremely busy, and if a committee has a number of bills with a fixed deadline for reporting to the House and has also initiated a couple of inquiries of particular interest to its members, it is possible that petitions might be treated as low-priority. This means that a select committee's consideration of a petition can at times be significantly delayed – occasionally for years with little action.

Consideration of petitions

There are no prescribed rules about how petitions are to be considered by select committees. The Standing Orders Committee has commented that “we believe that the presumption should be that principal petitioners will be invited to make written submissions on their petitions; but if a committee is dealing with a large number of petitions it is up to the committee to determine whether to invite written submissions and whether to hear from each petitioner.”¹

In practice, there is an established approach that is usually followed:

1. the lead petitioner is invited to provide a written submission;
2. any relevant government departments are invited to provide submissions;
3. the committee decides on the basis of these written submissions whether to hear oral evidence from the parties;
4. having considered the evidence, the committee deliberates on a draft report; and
5. the committee then reports to the House on the petition.

A committee may take a wide variety of approaches depending on the nature of each petition. Some petitions can become significant pieces of work. In the last Parliament, a petition on voluntary euthanasia became a de facto inquiry, with the committee receiving over 20,000 submissions and hearing evidence from 945 submitters.² On the other end of the spectrum, committees may, on rare occasions, consider a petition request and choose to report it to the House almost immediately, without seeking additional evidence.

Another matter for consideration is the quality of the committee reports on petitions. In the past, it has been common for a select committee to consider a petition, and then report it to the House with a “pro forma” report, essentially saying that the committee has considered the petition but making no substantive comment on the petition’s subject matter. However, in 2014, the Standing Orders Committee recommended that “committees should include some reasoning in their reports on petitions; presenting pro forma reports with little content should be uncommon.”³ This recommendation has had an impact on committee behaviour; in 2017 the Standing Orders Committee said that “...of petitions lodged in the current [51st] Parliament, 75 percent have received substantive reports. We hope to see this number improve

¹ Standing Orders Committee, Review of Standing Orders, I.18A, July 2014, p. 30.

https://www.parliament.nz/en/pb/sc/reports/document/50DBSCH_SCR56780_1/review-of-standing-orders-2014-i18a

² Petition 2014/18 of Hon Maryan Street and 8,974 others -

https://www.parliament.nz/en/pb/sc/reports/document/SCR_74759/petition-20140018-of-hon-maryan-street-and-8-974-others

³ Standing Orders Committee, Review of Standing Orders 2014, I.18A, July 2014, p. 30.

https://www.parliament.nz/en/pb/sc/reports/document/50DBSCH_SCR56780_1/review-of-standing-orders-2014-i18a

further in the next Parliament.”⁴ The concern is that if petitioners feel their issues are only given a cursory examination, it may discourage future engagement with the Parliament, where a more detailed report that provides considered reasoning will allow a petitioner to feel that they have been heard, even if they do not achieve their desired outcome.

If, in considering a petition, the committee considers that there are matters that should be addressed, the committee may make recommendations to the Government in its report to the House. The Government is required to present a response to the House within 60 working days (approximately three calendar months) to any recommendations addressed to it.⁵

Once a select committee has reported to the House on a petition, it is not possible to lodge any further petitions on the same subject matter during the term of the Parliament unless substantial and material new evidence becomes available.⁶ This ensures that the same issue is not repeatedly re-litigated in circumstances where the committee is unlikely to reach a different view. However, it is possible to lodge a new petition while the select committee is still considering a petition on a matter. Earlier this year, a select committee was considering three different petitions calling for an inquiry into a particular military operation when a fourth petition on this issue was created as an e-petition. At the time, that e-petition was in order, as the committee had not reported on the earlier petitions; however, while it was still collecting signatures the committee presented its report, which meant the e-petition had to be terminated as it was then out of order.

Petitioning the House of Representatives, including a review of Standing Orders and relevant practice and procedures

As noted earlier, the New Zealand Parliament launched its e-petitions system in March of this year. I am aware that the Australian House of Representatives e-petition platform was made available on September 2016. You will therefore have 18 months of additional experience with your e-petitions system, and will have already encountered many of the challenges that we are currently dealing with.

The New Zealand experience

The introduction of an e-petition system required a sessional order of the House to adapt the Standing Orders so that paper-based and electronic petitions were able to be accepted.

Since commencing the e-petitions system, we have found there to be a great deal of public enthusiasm for it. In the past eight months, the New Zealand Parliament website has hosted 240 e-petitions, collecting a total of over 150,000 signatures, including four e-petitions that each collected over 10,000 signatures each. We have also noticed that e-petitions seem to have made the process available for a new and engaged public; we have had a number of petitioners who do not seem to have previously created a paper petition but who have created multiple e-petitions.

⁴ Standing Orders Committee, Review of Standing Orders, I.18A, July 2017, p. 36.
https://www.parliament.nz/en/pb/sc/reports/document/SCR_74675/review-of-standing-orders-and-petition-2014107-of-malcolm

⁵ Standing Order 252.

⁶ Standing Order 371(c).

However, peoples' understanding of the petitions process has not been strong. Although significant work was put into developing resources on the website that would explain the process, people do not always appreciate the significance of petitioning Parliament, the limits on what Parliament can achieve, or the potential consequences

of posting sensitive personal information as part of a public petition. At times, petitions make serious allegations without authentication or hyperbolic statements that fail to meet our requirement to be respectful and moderate; we have had petitions that refer to named individuals as being "poisonous", or that talk about "state-sanctioned killings" in a way that cannot be hosted on the Parliament's website. Because it is so easy to create an e-petition, people at times seem to create a petition impulsively without fully considering what is involved.

This has resulted in e-petitions generating a much larger workload on staff during the moderation stage. Where it had been anticipated that most petitions would be able to be moderated and published quickly, the experience has been that many petitions can be time-consuming. Staff have had to engage quite closely with petitioners, seeking clarification on various points or authentication of various asserted facts. At times, staff have undertaken their own research to assess the accuracy of elements of the petition or to determine the most appropriate way to frame a petition. Petitions frequently have to be rewritten completely, with staff often debating the nuances of different phrasing to find wording that reflects the petitioner's intent while also satisfying the House's requirements.

At the same time, the petitions process can allow Parliament to become a portal that people can engage with if they don't know how to engage with the wider government structure, and this has even allowed some matters to be resolved without the need for a petition. For example, on one occasion, a student lodged a petition seeking a change to education legislation because his school was claiming a certain school policy was a requirement of the legislation; in moderating the petition, staff contacted the Ministry of Education, were able to confirm that there was no such legal requirement, and were able to give this information to the petitioner.

One unexpected pattern is that there have been waves of e-petitions that have been received from multiple students from the same school. We have learned that many of these petitions have been created as part of a school exercise – the students may have to undertake an action of social engagement as part of their studies, and the petition was their selected action.

Follow-through on e-petitions

One issue that has been a surprise has been the relative lack of follow-through on e-petitions by the petitioners. Because of the time required for the entire process, a petitioner may start a petition in a moment of enthusiasm, but that enthusiasm may have faded by the time the process ends. This is in stark contrast to our experience with paper petitions, where the fact that a person has successfully collected the signatures and is in a position to present it means that they are committed to seeing the petition through.

As at the time of writing, there have been 358 e-petitions received in the system. Of these:

- 6 have been at the moderation stage for over a month, as staff are awaiting further information from the petitioner on the petition before moderating the petition.
- 17 have been at the Petitioner Feedback Requested status for over a month – the petitions have been moderated by staff and are awaiting the petitioner's approval to the changes made.
- 91 have been Closed for over a month – they are no longer accepting signatures but have not yet been presented.

When a petition closes, the petitioner is advised that they need to arrange a member to present the petition in order for the Parliament to consider it. Despite this, almost 85 percent of the e-petitions to date that have finished collecting signatures have not been presented to Parliament. When petitioners have been contacted to remind them that a member is needed to present the petition, they often express little interest in progressing their petitions further, some stating that they felt their purpose was served simply by having the petition available.

We have not yet determined how to deal with petitions where the petitioner has failed to take the necessary action to progress the petition. It may be that imposing a time limit for responding to messages from staff or for arranging the presentation of closed petitions could be desirable, to introduce some urgency for petitioners to take action with their petition and to also deal with a growing backlog of petitions that will not proceed.

Joke petitions

There are two main viewpoints about hosting joke petitions on official e-petitions websites. The first is that this is an excellent way to raise the profile of the e-petitions process. A prominent example of this was the e-petition asking the United States Government to build a Death Star. The humorous response to the petition gained international media attention, which in turn caused many people to learn that the White House had an e-petitions platform, and may have increased engagement with that process.

The other view is that petitioning Parliament is an important process for people seeking to achieve a serious purpose, and that allowing joke petitions may make light of the process. If one joke petition attracts attention, it also risks encouraging other people to try to develop their own joke petition. If too many joke petitions are created and allowed on the website, they might risk obscuring genuine petitions on serious matters.

Many joke petitions are able to be easily dismissed as they are clearly not in order. For example, one of our early e-petitions asked the House to give an Academy Award to a particular film. This could be rejected as being outside of the House's control. Where it is not so clear cut, the Clerk of the House seeks a ruling from the Speaker on whether a petition is frivolous. Where a petition is ruled to be frivolous, it

is not hosted on the Parliament website. To date, we have received five petitions that have been ruled to be frivolous by the Speaker.

The position has essentially been that people are free to make their own jokes but that there is no obligation on the Parliament to make these jokes available and treat them seriously. However, such humorous petitions are not necessarily out of order: if a person was to create a valid paper-based petition with a similar request and found a

member of Parliament willing to present the petition, it would be able to be presented. In reality, this seems unlikely to occur.

Combined paper petitions and e-petitions

As we were preparing for e-petitions, consideration was given to no longer accepting paper petitions. However, this was not seriously pursued for a number of reasons. While e-petitions are ideal for collecting a large number of signatures on matters of broad public policy, where a person is seeking relief on a personal matter a paper petition is often preferable. It is also notable that certain sectors of the community may not have easy access to the internet, and paper petitions are a valuable way of allowing their voices to be heard.

However, it was anticipated that people would increasingly focus on e-petitions, and that paper petitions would become less common. One thing that has been surprising has been that a number of petitioners have sought to combine an e-petition and a paper petition. We do not currently accept combined petitions; the sessional order allowing for e-petitions notes that “a petition may be started, signed and presented either in hard copy or in electronic form” (emphasis added).

Where people have sought to combine a paper and an e-petition, we suggest that they instead present the two petitions at the same time. These are therefore technically two petitions, but are referred to the same select committee for consideration together. To date, there have only been three occasions where a paper and an e-petition have been referred together, but petitions staff are often asked if the two types can be combined, and this is likely to be an ongoing issue.

Expressing a position for no change

Because the purpose of a petition is to ask the Parliament to take some kind of action for the relief of a petitioner, a petition that asks the House to take no action is regarded as being out of order. A petition requesting the House to not change the law on a particular topic would therefore not be accepted, as it literally requires no action to keep the law unchanged. However, once a bill was introduced that would change the law on that topic, a petition asking the House to reject that bill would be in order.

One example of this occurred earlier this year, when a petition requesting the House to not change laws on abortion was received. At the time the Minister of Justice had asked the Law Commission to review the law on abortion and the Prime Minister had expressed a desire to change the law on abortion, but because there was no

proposal to change the law before the House at the time, the petition to not change the law was not in order.

Hosting e-petitions on the Parliament website complicates this. For example, we have recently received several petitions requesting that the current law around retail sales of fireworks be maintained, which have been rejected as not asking the House to take any action. At the same time, we are hosting petitions calling for retail sales of fireworks to be banned. It may be undesirable for Parliament to allow one side of a highly contentious debate to express their view on its website, while at the same time not allowing the other side to have their opinion recorded.

When staff spoke with one person whose petition on fireworks sales was rejected, he understood why the petition could not be accepted, but was concerned that change could result based on the opinions of a small minority, simply because there was no way to compare it with the number of people who support current laws. While such people could make submissions or petition Parliament in support of the current law if any bills on the matter come before the House, it could be that such proposals for change may by then be significantly advanced and difficult to prevent from passing.

There may be a case for considering whether to loosen requirements for petitions in order to accommodate such requests for inaction. In practice, it seems unlikely that such a change will result in a significant increase in the number of petitions received, as such petitions would probably be in response to serious proposals for changes in the law. If such a petition could be received, the select committee could make recommendations on the matter to the Government, which could then be taken into account as any proposals for change were drafted.

However, there is a contrary view that people who prefer the current law already have a significant advantage by the fact that their position is supported by the law and that, because achieving legislative change is such a difficult process, it is the people who would seek such change that need the assistance of the petitions process to achieve their aim. It should also be remembered that many significant social changes have occurred as a result of advocacy by people expressing opinions that were unpopular to the majority.

As an alternative to increasing the types of petitions that may be received, it might be possible to allow people to sign in opposition to an e-petition. However, this is likely to be undesirable. It might actually discourage public engagement, as people with seriously held but unpopular views on matters might choose not to petition Parliament if they were concerned their petition could be used as a vehicle for people to express their disagreement with the subject matter.

Consequences for larger petitions

In the New Zealand Parliament, there is no practical consequence for collecting a large number of signatures. Whether a petition receives a single signature or 100,000, all petitions will be referred to a select committee to consider on the merits of the petition request and the arguments presented. There are good reasons for this approach; it ensures that all matters of concern are considered by the House, and that people are not disadvantaged simply because their issue is one of little wider

interest or because they lack the resources or the ability to arrange a large campaign to collect signatures.

However, where a petition collects a certain number of signatures, it might be desirable to trigger some extra process, such as a debate in the House. Such an approach is taken in jurisdictions like the United Kingdom. However, careful consideration would need to be given to when this debate might take place and what the purpose of this debate might be. If the debate took place before the select committee considered the petition, then members would speak on the matter without being able to receive and consider all of the relevant information. A debate on the select committee's report on the petition might be a more effective and informed use of the House's time, but it

would also delay such a debate until a number of months or years after the petition was presented.

Summary

- There are advantages to referring petitions to select committees based on their subject area, rather than to a specific petitions committee, particularly as it allows the petition to be considered by members who have a more detailed understanding of the matters at issue in the petition.
- However, a committee focused solely on petitions does ensure that petitions are given prominence, rather than being lost under the other work of the committee.
- Processes and rules should be developed for dealing with petitions where the petitioner has failed to take action to progress the petition.
- Consideration should be given to how best to approach petitions that are intended as a joke – whether to welcome them as an opportunity for increasing engagement, or reject them as making light of an important process for achieving a serious purpose.
- Paper petitions still have value, and should still be accepted.
- People seem to be interested in combining an e-petition and a paper petition.
- It may be desirable to allow for people to petition Parliament to express support for the current law on contentious issues, but this is a significant change to the purpose of petitions and should be considered carefully.
- Consideration could be given to introducing a special debate for petitions that demonstrate a significant level of public support, but this should be additional to the regular process of examining petitions which all petitions should undergo.

Thank you for offering the opportunity to make this submission.

I also look forward to reading the report on your inquiry, and hope that some of its findings may assist us in our efforts to make the petitions process more effective in our Parliament.

Yours sincerely

David Wilson
Clerk of the House of Representatives